### An Overview of Ongoing Legislative Efforts to Improve America's Fisheries



## Why Amend the CWA to Address Fisheries Habitat Concerns?

- The Clean Water Act's (CWA) national policy is to achieve "fishable and swimable" water
- CWA reauthorization is anticipated in the next several years
- Major CWA funding increases are expected why not for fish?

#### It Is Not Just A Pollution Problem

- In the past 25 years, the federal CWA has accomplished a good deal:
  - \$70 billion spent to clean up sewage and other waste streams
  - EPA/state regulatory programs focus on point sources
  - Water quality is better in many places
- But even where pollution is being controlled, HABITAT CONDITIONS often are degraded. 41 percent of America's rivers and streams are affected by:
  - Reduced flows
  - Siltation
  - Stream bank erosion
  - Channelization

#### Why Do We Need This Effort?

- Forty percent of all surfaces waters are not fishable and swimable
- Twenty thousand waterbodies are considered polluted, including:
  - 300,000 river and shoreline miles
  - 5 million acres of lakes
- Only 2 percent of America's stream miles are considered high quality

## Fishable Water Coalition Progress To Date

- Fishable Waters Coalition (FWC):
  - American Fisheries Society
  - American Sportfishing Association
  - Bass Anglers Sportsman Society
  - International Association of Fish and Wildlife Agencies
  - Izaak Walton League of America
  - Trout Unlimited
  - National Corn Growers Association
  - National Council of Farmer Cooperatives
  - Pacific River Council
- PURPOSE: Develop legislation to strengthen America's ability to protect, restore and enhance fisheries habitat

## Fishable Water Coalition Progress To Date (continued)

- Outreach to gather and synthesize the best ideas:
  - Administration (EPA, Interior, Commerce, Agriculture)
  - Environmental Community
  - Agriculture Community
  - Natural Resource Agencies
  - Western Water Rights Concerns
  - Western Governors Association
- Drafted comprehensive amendment to CWA

## Fishable Water Coalition Progress To Date (continued)

- Bill reintroduced into the House January 31, 2001 and Senate April 4, 2001 by:
  - Sen. Kit Bond (MO)
  - Sen. Blanche Lambert Lincoln (AR)
  - Rep. John Tanner (TN)
  - Rep. Roy Blunt (MO)
  - Rep. John Dingell (MI)
  - Rep. Nancy Johnson (CT)
  - Rep. Charles Stenholm (TX)
  - Rep. Sherwood Boehlert (NY)
  - Rep. Wayne Gilchrest (MD)
  - Rep. John Dingell (MI)
  - Rep. Phil English (PA)
  - Rep. Chris John (LA)
  - Rep. James Saxton (NJ)
  - Rep. Neil Abercrombie (HI)
  - Rep. Frank Pallone (NJ)
  - Rep. Allen Boyd (FL)

- Rep. Edward Whitfield (KY)
- Rep. Jim Leach (IA)
- Rep. Bob Clement (TN)
- Rep. Nathan Deal (GA)
- Rep. Alan Mollohan (WV)
- Rep. Donna Christian-Christensen (VI)
- Rep. Tom Latham (IA)
- Rep. George Miller (CA)
- Rep. Carolyn Kilpatrick (MI)
- Rep, Eleanor Holms Norton (DC)
- Rep. James Maloney (CT)
- Rep. Leonard Boswell (IA)
- Rep. Shelly Moore Capito (WV)
- Rep. Patsy Mink (HI)
- Rep. Mike Thompson (CA)

#### **FWA Objectives and Features**

 OBJECTIVE: Provide an effective program to protect, restore and enhance fisheries habitat through voluntary, locally-led efforts to focus substantial resources where they are needed most.

#### • FEATURES:

- Fish Focus
- Voluntary, Incentive-based
- Local Decision Making
- Major Funding

## 1. A New Clean Water Act Focus On Fish Habitat

- CWA programs now focus on the most-polluted waters ("Worst First")
- EPA focuses primarily on chemical purity rather than biological criteria
- FWA brings fish habitat into the mix, and puts a priority on waters that CAN become good fisheries

#### 2. Voluntary, Incentive-Based Program

- CWA is primarily "command-and-control"
  - Regulations, permits, enforcement
- FWA provides financial assistance and other incentives
  - All actions undertaken only with consent of willing landowners

#### 3. Local Decision Making

- CWA is top-down:
  - EPA states regulated parties
- FWA provides a structure for states to utilize federal funds to empower local decision making through representative watershed councils
- Watershed council decisions have binding effect when approved by states

#### 4. Major Funding

- FWA would marshal \$325 million in federal funds to improve habitat
- In addition, FWA would provide incentives to utilize 19 federal funding programs for habitat improvements

#### **Overview of the Proposed Legislation**

- The Primary Program
- Three Supplemental Programs
  - Urban fisheries restoration
  - Instream flows and water quality
  - Major rivers initiative

#### **Highlights Of The Primary Program**

- States choose to participate
  - Submit program for USDA approval
  - MOU with USDA; Federal funding
- State programs will provide for:
  - Designation and funding of watershed councils
  - Review and approval of councils' plans
  - Selection of high-priority council recommendations for project funding
  - Coordination with other states
  - Progress reporting to federal agencies

#### Highlights (continued)

- Watershed councils are:
  - Locally-led
  - Representative
  - Non-regulatory
  - Consensus driven
- Watershed council functions:
  - Evaluate the watershed and identify needed habitat improvements
  - Develop plans and recommendations for habitat improvement projects
  - Secure state approval

#### Highlights (continued)

- Types of projects can include:
  - Erosion and runoff prevention
  - Reconnection of floodplains
  - Streambank stabilization
  - Removal of obstructions
  - Livestock fencing
  - Many others

#### Highlights (continued)

- Legal effects of approved watershed council plans:
  - Project funding (direct; other programs)
  - Federal land management agencies must consider council's recommendations
  - Anyone using federal funding to undertake structural activities in the 100-year floodplain must consider council's recommendations

#### **Supplemental Programs**

- Urban fisheries restoration
  - Managed by U.S. Department of the Interior
  - Implemented by state fish & wildlife agencies
  - Direct funding for urban habitat projects up to \$500,000
  - In-kind cost share (30%)
  - Full funding in economically depressed areas

#### Supplemental Programs (continued)

- Major rivers initiatives
  - Managed by U.S. Department of the Interior
  - Covers major waterways not addressed by watershed councils
  - DOI makes project recommendations to states with approved programs
  - State participation is voluntary
  - DOI recommendations treated the same as watershed council recommendations under the primary program (i.e. state approval, funding, etc.)

#### Supplemental Programs (continued)

- Instream flows and water quality
  - Managed by U.S. Department of the Interior
  - Voluntary state participation
  - States use funds to acquire water rights under state law for habitat improvement
  - Water rights acquired only from willing sellers
  - Funding authorized at \$50 million per year
  - State authorities not impaired

# The Fishable Waters Act Offers an Opportunity to Deliver on the CWA's Promise – Made Nearly 30 Years Ago – To Produce Fishable Waters Throughout America by Combining:

- Federal funding and oversight
- State leadership and management
- Local planning and decision making
- Voluntary participation by landowners